·BELLSOUTH TELECOMM( ·CATIONS, INC.      (·IFF F.C.C. NO. 1
BY: Operations Manager - Pricing     4TH REVISED PAGE 7-103.8
    29G57, 675 W. Peachtree St., N.E.    CANCELS 3RD REVISED PAGE 7-103.8
    Atlanta, Georgia  30375
ISSUED: MAY 10, 1995          EFFECTIVE: MAY 22, 1995

ACCESS SERVICE

7 - Special Access Service (Cont'd)

7.4 <u>Rate Regulations</u> (Cont'd)
7.4.20 <u>Network Optimization Waiver (NOW)</u> (Cont'd)

     (A) (Cont'd)

        (4) NOW requests will be processed as projects for each designated
            Point of Presence (POP), Access Carrier Terminal Location (ACTL)
            or end user location, and all associated connect and disconnect
            order Access Service Requests (ASRs) must be placed at the same
            time.  All ASRs must be received on or after August 22, 1994
            but prior to July 21, 1995 with due dates of no later than       (C)(x)
            April 21, 1996.  Only one reconfiguration plan will be         (C)(x)
            permitted per POP/ACTL or end user location.  The NOW will
            terminate April 21, 1996.                        (C)(x)

        (5) Customers are not permitted to move their POP or end user
            location as part of a NOW project.

        (6) Termination Liability Charges will be waived for Special Access
            service upgrades from DDAS or DS1 service to LightGate service
            or SMARTRing service, and from LightGate service to SMARTRing,
            service if the resulting CSPP service period of the reconfigured
            network is at least as long as the existing CSPP service period
            remaining or the minimum CSPP period, whichever is greater.
            Additionally, customers may decrease existing LightGate service
            system or SMARTRing service networks to smaller system sizes
            under the NOW offering, given the same minimum CSPP time period
            constraints above, without termination liability as long as
            equivalent VG, DDAS, and non-channelized DS1 channel services
            are maintained on the reconfigured network.

        (7) Nonrecurring charges will be waived for Switched Access
            Services that are groomed or rolled over onto LightGate
            service or SMARTRing services under NOW specifications.  In
            addition, they are also subject to the following requirements:

            -If the number of installed trunks exceeds the number of trunks
             to be disconnected, the customer must provide, at the time the
             ASRs are placed, justification based upon standard engineering
             methods.

            -When multiple ASRs are required, the ASRs must be submitted at
             the same time and the customer must provide related purchase
             order numbers pertaining to multiple ASRs.

     (x) Issued under authority of Special Permission No. 95-525.

BELLSOUTH TELECOMMU( ATIONS, INC.
BY: Operations Manager - Pricing
    29G57, 675 W. Peachtree St., N.E.
    Atlanta, Georgia  30375
ISSUED: MAY 10, 1995

( RIFF F.C.C. NO. 1
2ND REVISED PAGE 7-103.8.1
CANCELS 1ST REVISED PAGE 7-103.8.:

EFFECTIVE: MAY 22, 1995

## ACCESS SERVICE

### 7 - Special Access Service (Cont'd)

### 7.4 Rate Regulations (Cont'd)

#### 7.4.20 Network Optimization Waiver (Cont'd)

(B) Not withstanding the provisions of 7.4.20(A) preceding, if a
customer has submitted to BellSouth, by July 21, 1995, a letter          (C)(x)
indicating its intent to submit ASRs for the purpose of
accomplishing the rearrangement described in 7.4.20(A) and
specifying, at a minimum:

- Customer Name,
- Access Carrier Name Abbreviation (ACNAs),
- Carrier Identification Codes (CICs),
- Purchase Order Number (PON),
- Point of Presence (POP) Access Carrier Terminal Location (ACTL),
- Desired Interface Level at POP after Rearrangement,
- Target Completion Date for POP Rearrangement,
- Existing Quantities Involved in Rearrangement by Number of DS3s,
  Number of DS1s and Number of Trunks/Lines per POP/ACTL, and
- Expected Quantities Resulting by Number of DS3s,
  Number of DS1s and Number of Trunk/Lines per POP/ACTL,

the waiver specified in 7.4.20(A) will apply for quantities
indicated in such letter for each POP/ACTL indicated if:

- ASRs for such quantities are submitted no later than
  January 21, 1996;                                                      (C)(x)
- the due dates of those ASRs are no later than April 21, 1996,          (C)(x)
- the rearrangements otherwise qualify for the waiver pursuant
  to the requirements of 7.4.20(A).

#### 7.4.21 Voice Grade Service

Monthly rates and nonrecurring charges as specified in 7.5.3 following
apply for Voice Grade Service.

Voice Grade Service is available under several payment plans:  Voice Grade
Rate Stability Plan (with a minimum of 36 months and a maximum of 60 months),
Month-to-month (with a minimum of one month), Plan A (24-48 Months) or
Plan B (49-72 Months).  The Voice Grade Rate Stability Plan is provided as
outlined in 7.4.13 preceding.  Plans A and B are provided under conditions
specified in the Channel Services Payment Plan (CSPP), 2.4.8(A) preceding,
except as modified following:

(x) Issued under the authority of Special Permission No. 95-525.

**********

BELLSOUTH TELECOMMUNICATIONS, INC.
BY: Operations Mana( - Pricing
     29G57, 675 W. Peachtree St., N.E.
     Atlanta, Georgia 30375
ISSUED: MARCH 30, 1995

TARIFF F.C.C. NO. 1
3RD R( SED PAGE 7-156.4
CANCELS 2ND REVISED PAGE 7-156.4

EFFECTIVE: MARCH 31, 1995

## ACCESS SERVICE

## 7- Special Access Service (Cont'd)

### 7.5 Rates and Charges

### 7.5.17 Reconfiguration Charges

|  | Nonrecurring Charges | USOC | |
|---|---|---|---|
| - Per Customer Request for Voice Grade reconfiguration | $ 33.00 | PR1VM | (I)(x) |
| - Per Voice Grade circuit reconfigured | 23.00 | PR1VR | (R)(x) |
| - Per Customer Request for DDAS reconfiguration | 33.00 | PR1DM | (I)(x) |
| - Per DDAS circuit reconfigured | 23.00 | PR1DR | (R)(x) |
| - Per Customer Request for DS1 reconfiguration | 52.00 | PR11M | (I)(x) |
| - Per DS1 circuit reconfigured | 33.00 | PR11R | (R)(x) |
| - Per Customer Request for LightGate service or SMARTRing service reconfiguration | None | ----- | |
| - Per DS3 or DS1 circuit reconfigured | None | ----- | |

(x) Issued under the authority of Special Permission No. 95-327.

\*\*\*\*\*\*\*\*\*\*

ST: Operations Manager - Pricing
29G57. 675 W. Peachtree St., N.E.
Atlanta, Georgia 30375
ISSUED: MARCH 30, 1995

3RD REVISED PAGE 7-156.4
CANCEL NO REVISED PAGE 7-156.4

EFFECTIVE: MARCH 31, 1995

## ACCESS SERVICE

### 7- Special Access Service (Cont'd)

### 7.5 Rates and Charges

### 7.5.17 Reconfiguration Charges

|  | Nonrecurring Charges | USOC | |
|---|---|---|---|
| - Per Customer Request for Voice Grade reconfiguration | $ 33.00 | PR1VM | (I)(x) |
| - Per Voice Grade circuit reconfigured | 23.00 | PR1VR | (R)(x) |
| - Per Customer Request for DDAS reconfiguration | 33.00 | PR1DM | (I)(x) |
| - Per DDAS circuit reconfigured | 23.00 | PR1DR | (R)(x) |
| - Per Customer Request for DS1 reconfiguration | 52.00 | PR11M | (I)(x) |
| - Per DS1 circuit reconfigured | 33.00 | PR11R | (R)(x) |
| - Per Customer Request for LightGate service or SMARTRing service reconfiguration | None | ----- | |
| - Per DS3 or DS1 circuit reconfigured | None | ----- | |

(x) Issued under the authority of Special Permission No. 95-327.

**********

**EXHIBIT B**

## DECLARATION OF SCOTT LAYMAN

I, Scott Layman, depose and state as follows:

1.      I am the Director of Program Management for American Communications Services, Inc. ("ACSI"). In this capacity, I am responsible for the establishment of local exchange carrier ("LEC") collocations and the management of customer/carrier conversions from LEC-provided facilities to facilities provided by ACSI's operating subsidiaries. Prior to joining ACSI in November of 1994, I was a manager at Cable & Wireless, Inc. for one year. While at Cable & Wireless, I was responsible for the implementation of Signaling System 7 (SS7) throughout the Cable & Wireless network. I also assisted in the development of Cable & Wireless local access initiatives and policies by working directly with the LECs and competitive access providers.

2.      In my current capacity with ACSI, I have reviewed BellSouth's tariff regarding reconfiguration nonrecurring charges ("RNRCS"). The rate regulations in BellSouth's Tariff F.C.C. No. 1 provide that, in the case of an access channel termination location move ("ACTL move"), "service reconfiguration charges are applicable per customer request and circuit moved as contained in 6.8.8. following." *See* BellSouth Tariff F.C.C. No. 1, § 6.7.7(B). *See also id.* § 7.4.5(B). Thus, for example, the plain language of the tariff provides that if an ACTL move involves the reconfiguration of a switched or special access direct trunked transport DS3 facility, then a per request and a per circuit charge for a DS3 should be applied.

3.     In an attempt to confirm the RNRCs associated with both switched and special access reconfigurations, I spoke with Rich Dender, Account Manager at BellSouth, on July 12, 1995.  Despite the language in BellSouth's tariff, Mr. Dender informed me that BellSouth is in fact charging, demanding, collecting, and receiving multiple DS1 RNRCs and DS0 RNRCs *in addition to* a DS3 RNRC when an interexchange customer redirects a DS3 entrance facility circuit to a CAP's collocated facilities.  This practice is explained in BellSouth's response to my inquiry, a letter from Bill French, Technical Account Manager at BellSouth, which is attached hereto as Exhibit 1.

4.     As explained in Exhibit A, the number of DS0 or voice grade RNRCs BellSouth applies depends upon the capacity and utilization of the circuits the customer reconfigures.  If the customer reconfigures a DS3 with a CAP, then up to 672 DS0 RNRCs could be imposed, plus 28 DS1 RNRCs, plus one DS3 RNRC, plus one cross-connect.  Upon information and belief, up to twenty-four voice grade (*i.e.*, DS0) RNRCs (in addition to one DS1 RNRC and one cross-connect), would be imposed by BellSouth if the customer reconfigures a DS1 circuit with a CAP.

5.  Mr. French's letter explains that a single switched access DS3 RNRC applicable to ACTL moves is $240.90 under BellSouth's interpretation of its current tariff.  (The DS3 cross-connect charge plus one DS3 "per customer request" charge plus one DS3 "per circuit reconfiguration" charge).  If RNRCs are also applied at the

DS0 and DS1 levels for moving a fully utilized DS3, the cost becomes $9,900.90 — an increase of over 4000%.

6.      Mr. French's letter also illustrates the cost to a carrier associated with reconfiguring a special access DS3. A single special access DS3 RNRC applicable to ACTL moves is $151.90, *i.e.*, the DS3 cross-connect charge, under BellSouth's interpretation of its currently effective tariff. If RNRCs are also applied at the DS0 and DS1 levels for moving a fully utilized special access DS3, as described in Mr. French's letter, the cost becomes $16,531.90 — an increase of over 10,000%. Upon information and belief, the RNRC for a special access DS1 move would be $788.90 (the cross-connect charge, plus the DS1 "per request" RNRC, plus the DS1 "per circuit" RNRC, plus 24 DS0 "per circuit" RNRCs).

7.      The method of calculating RNRCs described above in paragraphs 4-6 is *not* clearly set out in BellSouth's tariff. The extremely high total RNRC that results when reconfiguring a DS3 imposes a significant disincentive to interexchange carriers ("IXCs") or other large BellSouth customers that desire to reconfigure with ACSI for direct trunked transport access.

8.      BellSouth's practices thus have harmed ACSI by:  a) foreclosing profitable business opportunities with current BellSouth customers who avoid switching to ACSI because of the excessive RNRCs, and b) increasing ACSI's costs and reducing or eliminating the profitability of reconfigurations for customers who utilize ACSI's

services only on the condition that ACSI absorb the resulting excessive -- and untariffed -- RNRCs.

9. No cost justification exists for the enormous charges that result from BellSouth's method of calculating RNRCs. An ACTL move of a customer's LEC-provided dedicated circuits to a collocated CAP facility involves labor, engineering, and recordkeeping changes that do not justify these charges, as I explain below. The sources of my understanding are numerous phone calls with BellSouth managers and employees, discussions with BellSouth personnel at the October 1995 meeting of the Association for Local Telecommunications Services ("ALTS") in Palm Springs, and a meeting between BellSouth and ACSI on October 2 and 3, 1995, to discuss the BellSouth conversion process and pricing issues.

10. First, when an IXC seeks to reconfigure a DS3 (or DS1) DTT transport circuit to a collocated CAP facility, as illustrated in Diagram 1 attached hereto, a BellSouth technician must physically detach the DS3 (or DS1) jumper cable from the cross-connect panel or multiplexer attached to the facility that goes to the IXC's point of presence, and must attach the cable to the CAP's cross-connect panel or multiplexer that is collocated within the LEC central office. I estimate that an experienced technician should be able to accomplish this task in under 2 hours. No other physical labor is required.

11. Second, the LEC will have to input changes in two databases as part of the reconfiguration. One is its Carrier Access Billing System ("CABS"), which

maintains and updates customer billing data, to reflect the changes in the customer's billing information. These recordkeeping adjustments reflect changes to individual DS0 circuits. These recordkeeping changes typically are keyed by a single employee within a circuit provisioning center.

12. To effect the change illustrated in Diagram 1, BellSouth must also update Trunk Inventory Record Keeping System ("TIRKS") database, an on-line recordkeeping system for circuit provisioning. In processing the IXC's ACTL move request, TIRKS records the change in the "Z" (terminating) coordinates of the circuit; determines the transmission facilities and equipment needed for the new circuit; updates the assignment status of the equipment, facilities and circuits as the order is processed; specifies the test requirements for the new circuit; and modifies the equipment inventory, accordingly. These TIRKS adjustments reflect changes to the high-capacity entrance facility trunks, and are made at the DS3 level for a DS3 reconfiguration, and DS1 level for a DS1 reconfiguration. These recordkeeping changes typically are done in conjunction with the inputs to the CABS database that I just described. Based upon my conversations and meetings with BellSouth personnel at the ALTS meeting referred to above and at other times in the fall of 1995, in particular with Mr. French and Pinky Reichert (Manager - Sales Technical Support), it is my understanding that a competent terminal operator should be able to input both the TIRKS and CABS changes for a DS1 in under 1.5 hours and for a DS3 in under 40 hours.

13.     The non-recurring charges that BellSouth imposes for an ACTL move involving a DS3 or DS1 dedicated circuit bear no reasonable relation to the direct costs imposed on a LEC by a customer's reconfiguration to a CAP facility. Virtually no capital expenditures are required. Accordingly, based on the above time estimates and the total RNRCs discussed earlier, the charges assessed by BellSouth amount to approximately $400 per estimated hour of labor required to accomplish a DS3 special access move, and almost $225 per estimated hour for a DS1 special access move.

14.     It is my understanding that, from an operational and cost standpoint, there are no significant differences between redirecting high capacity dedicated transport circuits to a different customer location through BellSouth, and redirecting them to a collocated CAP's facilities. In both cases all physical rerouting of circuits is done at the DS3 or DS1 level depending on whether a DS3 or DS1 circuit is being reconfigured, respectively.
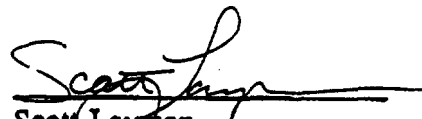
15.     Moreover, the database programming necessary to reflect changes in trunk assignments is similar for traffic rerouted to a different location on the customer's premises through BellSouth, and for traffic rerouted to a collocated CAP's facilities.

16.     Finally, while there may be differences in the modifications made in the carrier billing database, i.e., CABS, the cost of these differences is de minimis.

17.     The only way for ACSI to obtain the business of an existing BellSouth customer desiring to reconfigure would be to absorb the significant, unreasonable, and

discriminatory RNRCs imposed by BellSouth. This is typically not an economically feasible option. Therefore, as a result of BellSouth's practices, ACSI has lost, and will continue to lose, significant business opportunities.

Under penalty of perjury, I hereby declare that the foregoing is true and correct to the best of my knowledge, information, and belief this $9^{+h}$ day of February.

Scott Layman

July 14, 1995

Mr. Scott Layman
American Communications Services, Inc.
131 National Business Parkway
Suite 100
Annapolis Junction, Maryland 20701

Dear Scott:

I have reviewed your "Reconfiguration Pricing Scenario" fax to Rich Dender, Account
Manager at BellSouth from July 12, 1995. Your fax is requesting that BellSouth confirm
or modify your understanding of Switched and Special Access Reconfiguration Charges
for a Channelized DS3 pricing scenario.

1.      The Switched Access pricing scenario included in your pricing matrix assumed
        100% Switched Access (FCC #1 Section 6), Channelized from a DS3 down to the
        Feature Group B, C or D via Channelized DS1s.

                    *In accordance with FCC #1 Section 6.8.8, your application of
                    nonrecurring charges ("Unit Rate") per facility is correct at the
                    DS3 level. However, when you issue your request for
                    "Reconfiguration" at the Channelized DS3 level, then the "Per
                    Customer Request" charges at the DS1 and DS0 level do not
                    apply. As stated in the tariff all "Unit Rate/Per Circuit
                    Reconfigured" charges will apply to all work performed/completed
                    by BellSouth.*

                    *The issue of multiple DS3s being ordered as one "Per Customer
                    Request" is as follows. If more one or more DS3s with the same A
                    and Z location (Customer Premises/Point of Presence and Serving
                    Wire Center) is going to be ordered at the same time on the same
                    order, then only one "Per Customer Request" charge would apply
                    for all DS3s involved in that request.*

Mr. Scott
July 14, 1995
Page 2

2.       The Special Access pricing scenario included in your pricing matrix assumed 100% Special Access (FCC #1 Section 7), Channelized from a DS3 down to the DS0 level circuit via a Channelized DS1.

> *In accordance with FCC #1 Section 7.5.17, your application of nonrecurring charges ("Unit Rate") per facility is correct at the DS3 level. However, when you issue your request for "Reconfiguration" at the Channelized DS3 level, then the "Per Customer Request" charges at the DS1 and DS0 level do not apply. As stated in the tariff all "Unit Rate/Per Circuit Reconfigured" charges will apply to all work performed/completed by BellSouth.*

> *The issue of multiple DS3s being ordered as one "Per Customer Request" is as follows. If more one or more DS3s with the same A and Z location (Customer Premises/Point of Presence and Serving Wire Center) is going to be ordered at the same time on the same order, then only one "Per Customer Request" charge would apply for all DS3s involved in that request.*

3.       The DS1s used in your matrix were listed at 24 with DS0s being listed at 672.

> *Both pricing matrixes included in your fax will need to be modified to reflect 28 DS1s (assumed Channelized) which will provide you with your 672 DS0s.*

4.       "Per Order Rate" and "Unit Rate" are as follows:

> *1.     "Per Order Rate" is defined as Per Customer Request for (as setforth in FCC #1 Section 6 & Section 7):*
>        *a. Voice Grade reconfigured*
>        *b. DS1 reconfigured*
>        *c. DS3 reconfigured*
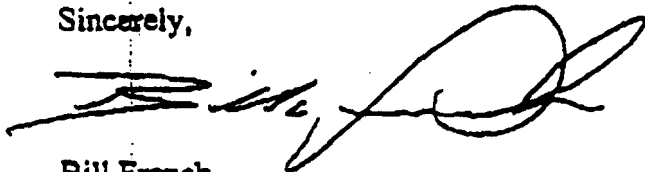>        *d. DDAS reconfigured*

Mr. Scott
July 14, 1995
Page 3

2.    *"Unit Rate" is defined as <u>Per Circuit Reconfigured</u> for (as setforth
in FCC #1 Section 6 & Section 7):*
   *a.  Voice Grade reconfigured*
   *b.  DS1 reconfigured*
   *c.  DS3 reconfigured*
   *d.  DDAS reconfigured*

The enclosed information is subject to charges and modifications based on BellSouth
tariff filings. After reviewing this preliminary information, if you have any questions
please feel free to call me at (205) 977-0535 or Pinky Reichert at (205) 977-1755.

Sincerely,

Bill French
Manager - Technical Support

Attachments:

cc:    Rich Dender, Account Manager
       Pinky Reichert,

BELLSOUTH TELECOMMUNICATIONS, INC.
BY: Operations Manager - Pricing
29657, 675 W. Peachtree St., N.E.
Atlanta, Georgia  30375
ISSUED: MARCH 30, 1995

TARIFF F.C.C. NO. 1
23RD REVISED PAGE 6-177.1
CANCELS 2ND REVISED PAGE 6-177.1

EFFECTIVE: MARCH 31, 1995

## ACCESS SERVICE

### 6 - Switched Access Service (Cont'd)

#### 6.8 Rates and Charges

##### 6.8.8 Service Rearrangement (Cont'd)

(J) Reconfiguration Charges

|  | Nonrecurring Charges | USOC |  |
|---|---|---|---|
| - Per Customer Request for Voice Grade reconfiguration | $ 16.00 | PR1VM | (R)( |
| - Per Line Side Service (FGA, LSBSA) | 19.00 | PR1VR |  |
| - Per Trunk Side Service (FGB, FGC FGD, TSBSA) | 13.00 | PR1VR | (R)( |
| - Per Customer Request for DS1 reconfiguration | 52.00 | PR11M | (I)( |
| - Per DS1 circuit reconfigured | 33.00 | PR11R | (R)( |
| - Per Customer Request for DS3 reconfiguration | 52.00 | PR13M | (I) |
| - Per DS3 circuit reconfigured | 37.00 | PR13R | (R) |

(x) Issued under the authority of Special Permission No. 95-327.

BELLSOUTH TELECOMMUNICATIONS, INC.     TARIFF F.C.C. NO. 1
BY: Operations Manager - Pricing         3RD REVISED PAGE 7-156.4
    29G57, 675 W. Peachtree St., N.E.     CANCELS 2ND REVISED PAGE 7-156.4
    Atlanta, Georgia 30375
ISSUED: MARCH 30, 1995           EFFECTIVE: MARCH 31, 1995

## ACCESS SERVICE

### 7- Special Access Service (Cont'd)

### 7.5 Rates and Charges
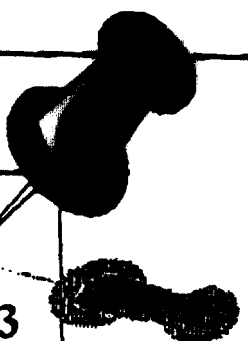
### 7.5.17 Reconfiguration Charges

|  | Nonrecurring Charges | USOC |
|---|---|---|
| - Per Customer Request for Voice Grade reconfiguration | $ 33.00 | PR1VM |
| - Per Voice Grade circuit reconfigured | 23.00 | PR1VR |
| - Per Customer Request for DDAS reconfiguration | 33.00 | PR1DM |
| - Per DDAS circuit reconfigured | 23.00 | PR1DR |
| - Per Customer Request for DS1 reconfiguration | 52.00 | PR11M |
| - Per DS1 circuit reconfigured | 33.00 | PR11R |
| - Per Customer Request for LightGate service or SMARTRing service reconfiguration | None | ----- |
| - Per DS3 or DS1 circuit reconfigured | None | ----- |

# Fax Cover Page

## SUBJECT:

Attached is my revised understanding of the BellSouth Reconfiguration charges based on the July 14, 1995 letter from Bill French. To convert 1 100% Switched Acess DS 3 from the BellSouth network to the ACSI collocation space will cost $9,900.90 (assuming 100% Interstate usage). To convert 1 100% Special Access DS 3 from the BellSouth network to the ACSI collocation space will cost $16,531.90 (assuming 100% Interstate usage). I will contact you on Monday to confirm this understanding. Thank you for your assistance on this issue.

## Assumptions:

1. 100% Switched or Special fill. If Split traffic then costs will be allocated based on the traffic type percentages.
2. Fully channalized DS 3's.
3. The percent PIU is 100% Interstate. Intrastate traffic is not accounted for in this pricing. Intrastate pricing will be dependent on the individual State Tariffs.
4. Multiple DS 3 conversions can be included under a single "Per Customer Request" charge, assuming the requests are all submitted simultaneously, and they all have the same A and Z locations.

# SWITCHED ACCESS

| | Per Customer Request | Per circuit reconfigured | # of Items | TOTAL |
|---|---|---|---|---|
| X-Connect | $ 151.90 | | 1 | $ 151.90 |
| DS 3 | $ 52.00 | $ 37.00 | 1 | $ 89.00 |
| DS 1 | $ . | $ 33.00 | 28 | $ 924.00 |
| DS 0 | $ . | $ 13.00 | 672 | $ 8,736.00 |

DS 3 Conversion Costs: ▓▓▓▓▓▓▓▓▓

# SPECIAL ACCESS

| | Per Customer Request | Per circuit reconfigured | # of Items | TOTAL |
|---|---|---|---|---|
| X-Connect | $ 151.90 | | 1 | $ 151.90 |
| DS 3 | $ . | $ . | 1 | $ . |
| DS 1 | $ . | $ 33.00 | 28 | $ 924.00 |
| DS 0 | $ . | $ 23.00 | 672 | $ 15,456.00 |

DS 3 Conversion Costs: ▓▓▓▓▓▓▓▓▓

# INTRASTATE TRAFFIC

* ALL INTRASTATE TRAFFIC WILL HAVE TO BE ORDER NEW BASED ON THE INTRASTATE TARIFF. THEREFORE FULL NRC'S WILL APPLY.

# Diagram 1

## Access Channel Termination Location Move

**entrance facility**

**Bell South subtending wire center**

**local transport**

**Bell South end office**

IXC point of presence

*vacated DS1*

*new DS1*

BST Switch: X-Connect Panel or MUX

*DS1*

BST Switch

ACSI Collocation: X-Connect Panel or MUX

*ACSI DS1*

*ACTL move*
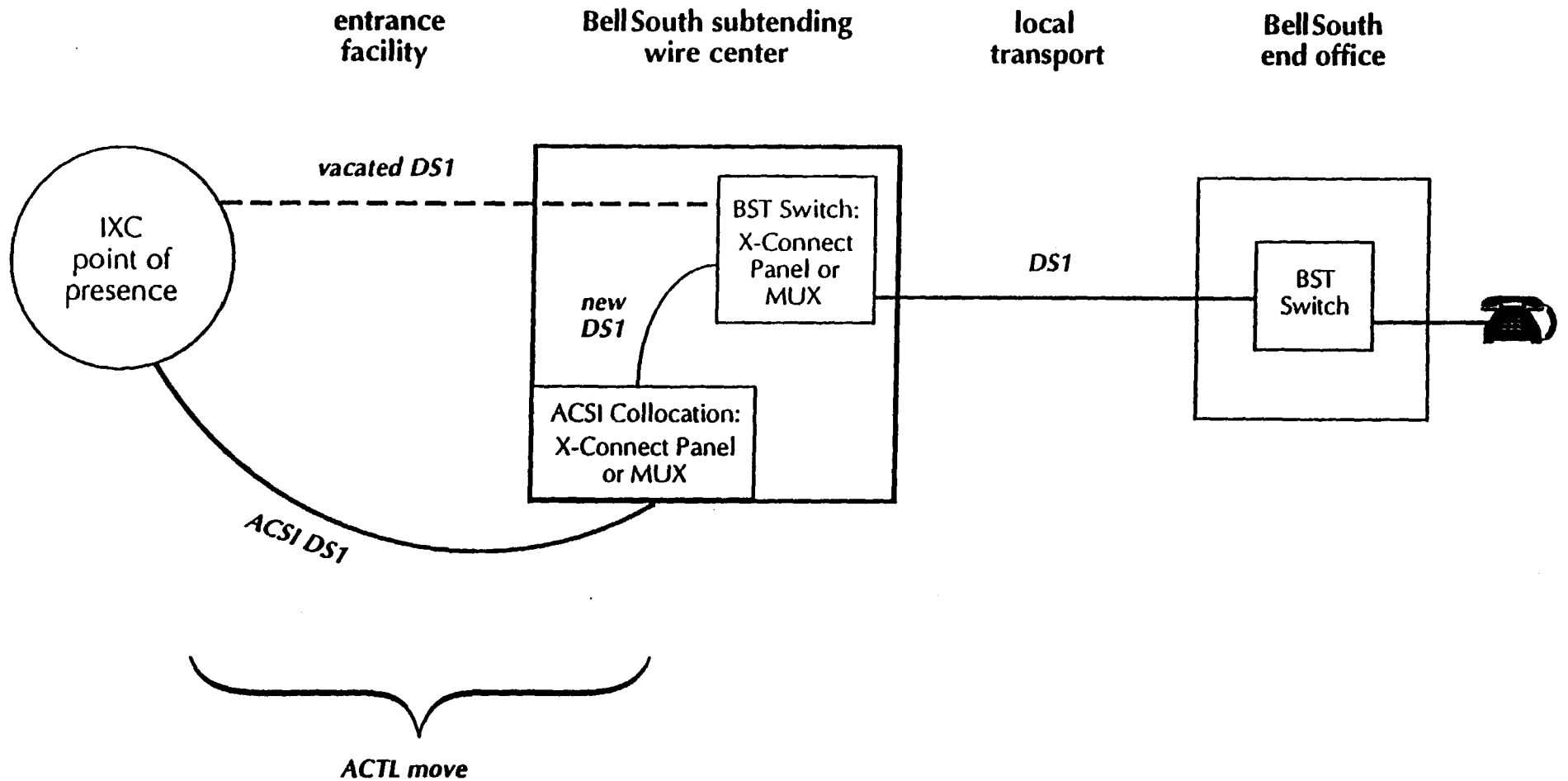
**EXHIBIT C**

EXHIBIT C

## DECLARATION OF DEBORAH SELLERS

I, Deborah Sellers, depose and state as follows:

1.    I am the Vice President of Carrier Sales for American Communications Services, Inc. ("ACSI"). In that capacity, I am responsible for managing all aspects of sales and accounts for the provision of ACSI's service to its interexchange carrier ("IXC") customers. Prior to joining ACSI October 1994, I held various positions in the telecommunications industry within which I dealt with several Bell Operating Companies and GTE as a major supplier of hardware. For several years ending in 1991, I worked with Metropolitan Fiber Systems in sales, competing with Ameritech and other LECs for traffic, at the time when collocation was emerging as an important issue for the future of competitive local access..

2.    In my current capacity at ACSI, I have become familiar with BellSouth's tariffs and practices regarding reconfiguration nonrecurring charges ("RNRCs") applicable to access channel termination location moves ("ACTL moves").

3.    It is my understanding that BellSouth assesses a single DS3 or DS1 RNRC when redirecting switched access DS3 and DS1 circuits, respectively, for customers that reconfigure with BellSouth. Based upon my information and belief, BellSouth has assessed RNRCs in this manner to ACTL moves by at least two of the largest five interexchange carriers. However, if an existing BellSouth customer reconfigures a DS3 circuit with a competitive access provider ("CAP), then BellSouth charges the customer up to 672 DS0 RNRCs and 28 DS1 RNRCs in addition to the

DS3 RNRC. For reconfiguring a DS1 circuit, BellSouth charges up to 24 DS0 RNRCs in addition to a DS1 RNRC. BellSouth considers all reconfigurations by its customers with a CAP as a change in customer location, warranting the imposition of RNRCs, even if the CAP is collocated in the BellSouth office currently serving the customer.

4.     BellSouth's tariff provides further that, if a BellSouth customer reconfigures its access configuration with BellSouth to take BellSouth's LightGate or SmartRing service, BellSouth waives the RNRCs altogether, in what it call the Network Optimization Waiver. *See* BellSouth Tariff F.C.C. No. 1, §§ 7.4.20(A) and (B). On information and belief, BellSouth has used this waiver to accommodate ACTL moves by interexchange carriers with multiple points of presence ("POPs") in the same market. Specifically, BellSouth has allowed IXCs to move circuits from one POP to the other without paying an RNRC, which I explain more fully below. Because the RNRCs are not waived if an existing BellSouth customer reconfigures with a CAP, this waiver policy has created a non-cost-based disincentive to customers that desire to reconfigure their networks to take transport service from collocated CAPs.

5.     Section 7.4.20 of BellSouth's Tariff No. 1 permits an IXC with one or more POPs in the same market to achieve what is, for all practical purposes, an ACTL move without incurring an RNRC. Specifically, it is my understanding that BellSouth has placed the multiple IXC POPs on a ring topology along with a BellSouth serving wire center. (At least two IXC locations are necessary in order for the IXC to opt for the ring topology.) Once the IXC is on the ring, the IXC can redirect all of the access traffic to one of its points of presence *without* incurring any RNRCs by virtue of the

- 2 -

Network Optimization Waiver. Thus, the IXC can reconfigure all of its traffic to a single POP and avoid the RNRCs that would otherwise apply. However, were that IXC to seek to reconfigure all of its traffic from its multiple POPs to that same POP through a CAP, BellSouth would apply RNRCs down to the DS0 level.

6. In addition, BellSouth does not treat all collected CAPs in a nondiscriminatory fashion. *See* Letter from Joseph R. Wilson, Sales-Vice President, Industry Services, BellSouth, to Thomas P. Byrnes, Regional Vice President, TeleCommunications Group, Inc. ("TCG"), dated June 30, 1994 ("Wilson Letter"), attached hereto. In the *Wilson Letter*, BellSouth informed TCG, a CAP, that its IXC customers would pay, at most, a single DS3 RNRC for the rollover, *i.e.*, ACTL move, of DS3 service from BellSouth to TCG. *Wilson Letter* at 2-3. (The DS3 RNRC consists of a DS3 cross-connect for both special and switched access, plus DS3 "per circuit" and "per request" RNRCs for switched access.) Similar treatment has not been available to ACSI's potential customers when they contemplate reconfiguring their networks to take DS3 service from ACSI rather than BellSouth. Rather, BellSouth has explained that the rollover of a DS3 to a CAP will incur up to 672 DS0 "per circuit" RNRCs and 28 DS1 "per circuit" RNRCs in addition to the DS3 RNRCs, leading to an increase in price of several thousand percent.

7. In my experience, a customer faces three choices in light of the excessive RNRCs imposed by BellSouth: (1) do not reconfigure, (2) reconfigure with BellSouth so as to avoid or minimize the excessive RNRCs, or (3) move to ACSI and pay the RNRC costs or ask ACSI to absorb such costs.
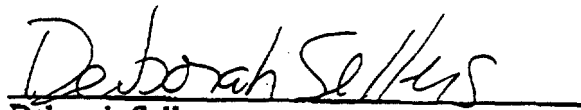
- 3 -

8.     In these situations, the only way for ACSI to make a reasonable bid for the business of the potential customer has been to offer to pay for the significant and unreasonable reconfiguration costs imposed by BellSouth. This is typically not an economically feasible option, and the lack of alternatives has effectively foreclosed ACSI from obtaining the business of existing BellSouth customers that are reconfiguring their entrance facilities. Therefore, as a result of BellSouth's practices, ACSI has lost, and will continue to lose, significant business opportunities.

9.     For example, last year, one interexchange carrier had agreed to move thirteen (13) DS3 circuits from BellSouth to ACSI. ACSI proceeded to prepare for the reconfiguration, including the purchase of OC12 equipment to accommodate the rollover. Approximately three months after reaching agreement, the IXC canceled the order, citing the excessive RNRCs of BellSouth. As a result, ACSI lost a five-year contract worth an expected $500,000 in revenues.

10.     As ACSI expands its operations to new markets, the magnitude of the adverse impact resulting from BellSouth's pricing of RNRCs will only mount. Operations in three of the nine markets in which ACSI has networks commenced only in the last two months. Construction is currently underway in six additional markets.

Under penalty of perjury, I hereby declare that the foregoing is true and correct to the best of my knowledge, information, and belief this 13 day of February, 1996.

_Deborah Sellers_

Deborah Sellers

- 4 -